

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Gary R. Jones)
Ward 053, Block 116, Parcel 00004) Shelby County
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER DISMISSING APPEAL

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$14,800	\$64,400	\$79,200	\$19,800

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 8, 2008 in Memphis, Tennessee. In attendance at the hearing were Gary Jones, the appellant, Alex Jones, and Shelby County Property Assessor's representatives John Zelinka, Esq. and Ken Washington.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 4481 Gailwood Avenue in Memphis, Tennessee. The taxpayer purchased subject property on July 24, 2007. The deadline for appealing to the Shelby County Board of Equalization was June 29, 2007.

The threshold issue before the administrative judge concerns jurisdiction. This issue arises from the fact the disputed appraisal was not appealed to the Shelby County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of

them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992). See also *John Orovets* (Assessment Appeals Commission, Cheatham County, Tax Year 1991). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Shelby County Board of Equalization.

The taxpayer testified that he contacted the assessor's office following his purchase of subject property. The taxpayer's phone call was treated as a customer inquiry as reflected by the "Customer Inquiry Form" appended to the appeal form. As indicated in paragraph 10 of the appeal form, the taxpayer erroneously believed he had appealed to the Shelby County Board of Equalization.

Respectfully, the administrative judge finds that the taxpayer failed to establish reasonable cause for not appealing to the Shelby County Board of Equalization. The administrative judge is unaware of any rulings by the State Board of Equalization that reasonable cause exists simply because a taxpayer purchases property after the deadline for appeal.

The administrative judge finds that the Assessment Appeals Commission has found jurisdiction in situations where a post-assessment date buyer purchases property prior to the deadline for appealing during the year of reappraisal, but does not receive effective notice because the assessment change notice was sent to the owner of record as of January 1. See, e.g., *Vivian & Russ Ragsdale* (Davidson Co., Tax Year 2001).¹ The administrative judge finds that the present appeal is clearly distinguishable from *Ragsdale* and similar cases for two reasons. First, since Shelby County was last reappraised in 2005 no assessment change notice was issued for tax year 2007. Second, the taxpayer purchased subject property after the deadline for appeal had already passed.

Based upon the foregoing, the administrative judge finds this appeal must be dismissed for lack of jurisdiction. Accordingly, the administrative judge finds it unnecessary to address the issue of value.

ORDER

It is therefore ORDERED that this appeal be dismissed for lack of jurisdiction and the following value and assessment remain in effect for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$14,800	\$64,400	\$79,200	\$19,800

¹ The Commission's decision was affirmed in *Metropolitan Government of Nashville and Davidson County v. Ragsdale*, No. 04-1811-IV (Davidson Chancery, April 18, 2006).


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 15th day of January, 2008.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Gary R. Jones
Tameaka Stanton-Riley, Appeals Manager